

**AMENDMENTS TO THE CLAIMS:**

This listing of claims will replace all prior versions, and listings, of claims in the application:

**LISTING OF CLAIMS:**

1. (Previously presented). An isolated DNA sequence serving as a genetic regulatory element in a chimeric gene, wherein said DNA sequence is the intron of the 5' non-translated region of a plant H3.3 histone gene.

2. (New) A method of making a chimeric gene comprising:  
obtaining a DNA molecule comprising a promoter sequence;  
obtaining a DNA molecule comprising an intron derived from the 5' non-coding region of a plant histone H3.3-like gene;  
obtaining a DNA molecule comprising a signal peptide sequence;  
obtaining a DNA molecule comprising a sequence encoding an enzyme;  
constructing the chimeric gene by linking the promoter sequence, the intron derived from the 5' non-coding region of a plant histone H3.3-like gene, the signal peptide sequence and the sequence encoding an enzyme, optionally including one or more linker sequences.

3. (New) The method of claim 2, wherein the sequence encoding an enzyme encodes a herbicide tolerance enzyme.

4. (New) The method of claim 2, wherein the sequence encoding an enzyme encodes an EPSPS enzyme.

5. (New) The method of claim 2, wherein obtaining a DNA molecule comprising an intron derived from the 5' non-coding region of a plant histone H3.3-like gene comprises isolating an intron from the 5' non-coding region of a gene in a plant genomic library that hybridizes under stringent conditions with a labeled histone H3.3 coding region probe.

6. (New) The method of claim 5, wherein the plant is selected from among wheat maize or rice.

7. (New) The method of claim 5, wherein the plant is selected from among lucerne, sunflower, soya bean, rapeseed, or *Arabidopsis thaliana*.

8. (New) The method of claim 2, wherein the DNA molecule comprising an intron derived from the 5' non-coding region of a plant histone H3.3-like gene comprises a DNA sequence as described in SEQ ID NO: 6 or SEQ ID NO: 7.

9. (New) A method of making a transgenic plant comprising obtaining a chimeric gene according to the method of claim 2, stably transfecting plant cells with a DNA molecule comprising the chimeric gene, and growing a transgenic plant from said transfected plant cells.

10. (New) A chimeric gene made by the method of claim 2.

11. (New) A plant comprising as a transgene a chimeric gene made by the method of claim 2.

12. (New) A chimeric gene comprising a promoter, an intron derived from the 5' non-translated region of a plant H3.3 histone gene, and a coding sequence.